

Exhibit E

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

- - -
EDDYSTONE RAIL COMPANY, : NO. 2:17-CV-00495-RK
LLC, :
Plaintiff/ :
Counter-defendant, :

v. :

JULIO RIOS, JEREMY GAMBOA, :
BRIDGER LOGISTICS, LLC, :
FERRELLGAS PARTNERS, L.P., :
FERRELLGAS, L.P., et al., :
Defendants, :

BRIDGER LOGISTICS, LLC, :
FERRELLGAS PARTNERS, L.P., :
and FERRELLGAS, L.P., :
Defendant/ :
Counterclaimants. :

- - -
Wednesday, December 5, 2018
- - -

Videotaped deposition of ERIK L. JOHNSON,
taken pursuant to notice, was held at the Law Offices
of Stradley Ronon Stevens & Young, LLP, 2005 Market
Street, Suite 2600, Philadelphia, Pennsylvania 19103,
commencing at 9:04 a.m., on the above date, before
Rhonda Watson, Professional Court Reporter and Notary
Public in and for the Commonwealth of Pennsylvania.

- - -
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- - -
I N D E X

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TESTIMONY OF ERIK L. JOHNSON

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By Mr. Kelley

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Exhibit-122

Attorney's Eyes Only Document
(See Separate AEO Transcript)

N/A

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Exhibit-123

E-Mail Attaching Correspondence
from Stradley Ronon to
Christopher Pennington, Proskauer
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9 Request for Production of Documents

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11 None

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13 Stipulations

14 Page Line Page Line Page Line

15 None

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17 Question Marked

18 Page Line Page Line Page Line

19 None

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- - -

2

THE VIDEOGRAPHER: Good morning.

3

We are now on the record. This begins

4

Video No. 1 in the video deposition of

5

Erik Johnson in the matter of Eddystone

6

Rail Company, LLC v. Julio Rios, et al.

7

The date today is December 5, 2018, and

8

the time on the video monitor is

9

approximately 9:04.

10

My name is Ryan Licursi. I'm the

11

videographer from Magna Legal Services.

12

The court reporter is Rhonda Watson also

13

of Magna Legal Services.

14

Will counsel present please

15

identify themselves and the parties they

16

represent?

17

MR. AGUSTI: I'm Fil Agusti. I

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represent the Plaintiff, Eddystone Rail

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Company.

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- - -

21

(Mr. Fielding and Mr. Kelley, Lynn

22

Pinker Cox Hurst, joined the proceedings.)

23

- - -

24

MR. GARCIA: Adriel Garcia,

1 Stradley Ronon, representing Canopy.

2 MS. BECK: Rachel Beck, Bryan Cave
3 Leighton Paisner, on behalf of Defendants.

4 MS. HARTLEY: Sarah Hartley, also
5 from Bryan Cave Leighton Paisner, for the
6 Corporate Defendants.

7 THE VIDEOGRAPHER: Off the record
8 at 9:05.

9 - - -

10 (A brief recess was taken.)

11 - - -

12 THE VIDEOGRAPHER: We're back on
13 the record at 9:07.

14 MR. FIELDING: Can we make our
15 appearance?

16 MR. KELLEY: Jon Kelley and Jeremy
17 Fielding on behalf of Defendants, Julio
18 Rios and Jeremy Gamboa.

19 THE VIDEOGRAPHER: Will the court
20 reporter please swear in the witness? And
21 we can proceed.

22 - - -

23 ERIK JOHNSON, after having been
24 first duly sworn, was examined and

1 testified as follows:

2 - - -

3 EXAMINATION

4 - - -

5 BY MS. HARTLEY:

6 Q. Good morning, Mr. Johnson. Can
7 you give your full name and address for the
8 record, please?

9 A. Erik Lafayette Johnson. My
10 business address is 4975 West Chester Pike, Suite
11 200, Edgmont, Pennsylvania.

12 Q. Now, have you been deposed before?

13 A. I don't believe so.

14 Q. All right. Then I'm just going to
15 go over a couple of ground rules that hopefully
16 will make this be a little bit smoother today.

17 First, let's try not to talk over
18 each other. I'll ask my question. If you could
19 wait until I'm done before giving your answer,
20 that will be great. And I'll try similarly to
21 wait until you're done with your answer before
22 asking my next question.

23 And for the court reporter as
24 well, if you could provide verbal answers, that

1 deal and that they had railcars, and that they
2 were very interested in getting into the
3 Philadelphia area.

4 Q. Did you make any representations
5 about when you thought the project would be up
6 and running and in service?

7 A. No.

8 Q. Did you make any representation --

9 A. Not that I recall. I mean, there
10 might have been some broad strokes, but I don't
11 recall that.

12 Q. Do you recall making any
13 representations about the facility being state of
14 the art?

15 A. I don't recall that. And quite
16 frankly, our plans at that time were for a -- a
17 budget facility, functional, but no frills. So I
18 don't think that I would make that statement.

19 Q. Did you make any statements
20 regarding the expected capacity for transloading
21 at the facility?

22 A. I probably said something. Well,
23 now I'm speculating. I don't recall that.

24 Q. Now, do you recall what Mr. Rios'

1 there talking with the railroads as well.
2 Numerous meetings with them up to the vice
3 president of chemicals, Rios was involved in some
4 of those meetings as well. And then we went on
5 a -- NS had a business train with their chairman
6 on it, if I recall correctly, Wick Moorman, that
7 went from Altoona to Harrisburg. And they had a
8 lot of operations people on there. We got to
9 talk with them. And Rios was on that train as
10 well.

11 Q. Anything else?

12 A. Not that I recall.

13 Q. Okay.

14 A. It was -- again, there was a lot
15 going on, so it was a busy time. So this is not
16 an exhaustive list.

17 Q. You have no current recollection
18 of any other diligence that ERC or Canopy
19 performed on rail access to the Eddystone
20 facility before contracting with Bridger Transfer
21 Services?

22 A. No. Just a lot of -- just what
23 I've said.

24 Q. Okay. Now, as you were getting

1 recollection.

2 Q. So you said, sailing on the tide
3 was acceptable to him. But did he give an
4 indication that that would be the only time at
5 which the petrochem producer could be fully
6 loading, given the continued existence of the
7 granite pinnacle in the channel?

8 A. I'd have to read the report.

9 Q. So whatever the report says on
10 that point, did -- did ERC ever share the report
11 with Bridger Transfer Services?

12 A. I don't -- I didn't share it with
13 Bridger Transfer Services. It might have been
14 shared -- I don't know if it was in the data run
15 that was given to Enbridge later.

16 Q. But you have no personal knowledge
17 of whether at the time it was received as the
18 facility was getting ready for operations,
19 whether anyone from ERC shared that report with
20 Bridger Transfer Services?

21 A. I have no recollection of that.

22 Q. Okay. Now, do you recall when ERC
23 disclosed the existence of the granite pinnacle
24 to Bridger Transfer Services?

1 Q. All right. So do you have any
2 knowledge of the specific information that BTS
3 was given, if any, regarding the granite pinnacle
4 prior to that February 2014 tour that I just
5 mentioned?

6 A. I mean, that --

7 MR. AGUSTI: Objection, asked and
8 answered.

9 THE WITNESS: That was Turnbull's
10 department, really.

11 BY MS. HARTLEY:

12 Q. Okay. All right. So let's --
13 let's now --

14 A. It was part of the complex vetting
15 procedure. I would add that as well.

16 Q. I'm sorry. The complex vetting
17 procedure?

18 A. Barge vetting procedure.

19 Q. Barge vetting procedure, okay.
20 All right. Now, let's talk about the rail access
21 to the facility, in particular the -- the SEPTA
22 window.

23 A. Yep.

24 Q. Generally, what is your

1 this matter.

2 So Canopy viewed it as a major
3 concession; is that --

4 MR. AGUSTI: Lack --

5 BY MR. KELLEY:

6 Q. -- fair to say?

7 MR. AGUSTI: Lack of foundation, I
8 object.

9 THE WITNESS: I don't recall.

10 BY MR. KELLEY:

11 Q. But you viewed the claims as
12 substantive and legitimate, right?

13 MR. AGUSTI: Objection, asked and
14 answered.

15 THE WITNESS: You know, I -- I'll
16 refer you back to what I've said before.
17 You know, we -- we felt that it was a
18 valid position, particularly at the time
19 and now that we're out of the fire, so to
20 speak. You know, as I said, the maddening
21 thing was, you know, these Canadians, they
22 have their own way of doing things.
23 They're a bunch of -- you know, a bunch of
24 guys from Canada and Texas. They do

CERTIFICATE

I HEREBY CERTIFY that the witness
was duly sworn by me and that the deposition is a
true record of the testimony given by the
witness.

Rhonda Watson



Rhonda Watson
Professional Court Reporter
Dated: December 10, 2018

(The foregoing certification of
this transcript does not apply to any
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the certifying reporter.)